

Martha G. Bronitsky, #127583  
Chapter 13 Standing Trustee  
Leo G. Spanos, #261837, Staff Attorney  
Nima Ghazvini, #254758, Staff Attorney  
Po Box 5004  
Hayward, CA 94540

Trustee for Debtor(s)

**THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

**In re**

**Phillip Bernard Moore**

Debtor

**Chapter 13 Case No. 13-46848-CN 13**

Amended

Chapter 13 Trustee's Objection to  
Modification of Chapter 13 Plan and  
Motion to Dismiss Chapter 13 Case

**Objection Information**

Trustee Objects To: Amended Motion to Modify Chapter 13 Plan  
Filed: 7/21/16  
Docket#: 49

**Motion To Dismiss Information**

☒ Trustee Seeks To Dismiss the Case ☐ Trustee Does Not Seek to Dismiss the Case

**(See II. Motion To Dismiss Below)**

**Case Information**

Petition Filed: December 31, 2013

Attorney Name: PATRICK L FORTE ATTY

**I. Objection**

Martha G. Bronitsky, Chapter 13 Trustee in the above referenced matter, opposes modification of the Chapter 13 Plan on the following grounds:

**Post-Confirmation Plan Modification 11 U.S.C. §1329, §1329(b)(1), §1325(a), §1329(c), §1322(b) and §1323(c)**

☐ (1) The plan fails to provide for submission of all or such portion of future earnings or other future income to the supervision and control of the Trustee as is necessary for execution of the plan. [11 U.S.C. §1322(a)]

Facts:

☐ (2) The plan fails to provide for the full payment, in deferred cash payments, of all claims entitled to priority under 507 of this title [11 U.S.C. §1322(a)]

Facts:

☐ (3) The plan fails to provide for the same treatment of claims classified within a particular class. [11 U.S.C. §1322(a)]

Facts:

☐ (4) The plan unfairly discriminates between a class or classes of unsecured claims. [11 U.S.C. §1322(b)]

Facts:

☐ (5) The plan impermissibly modifies the claim of the creditor secured only by a security interest in real property that is the Debtor's principal residence. [11 U.S.C. §1322(b)]

Facts:

☐ (6) The plan fails to provide for the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is at least the amount that would be paid on such claim if the estate of the Debtor was liquidated under Chapter 7 of this title on such date. [11 U.S.C. §1325(a)(4)]

Facts:

☒ (7) The Plan is not feasible. The Debtor will not be able to make all payments under the plan and comply with the plan. [11 U.S.C. §1325(a)(6)]

Facts: The Debtor has not made a payment since April 13, 2016. The Debtor is delinquent \$800 (through July) under the confirmed plan. Moreover, the Debtor is delinquent under the terms of the proposed modification \$100 through July 2016. If the motion to modify were granted, the Trustee would immediately file a new motion to dismiss based on delinquency. This motion should not be granted unless the Debtor can become current

☐ (8) The Debtor has not paid all domestic support obligation as required by 11 U.S.C. §1325(a)(8).

Facts:

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☐ (9) The Debtor(s) have not filed all applicable tax returns required by 11 U.S.C. §1325(a)(9)

Facts:

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☐ (10) The plan does not provide for the payment of equal monthly amounts to allowed secured claims. [11 U.S.C. §1325(a)(B)(ii)(I)]

Facts:

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☐ (11) The plan has not been proposed in good faith [11 U.S.C. 1325(a)(3)] and/or the action of the Debtor in filing the petition was in bad faith. [11 U.S.C. §1325 (a)(7)]

Facts:

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☐ (12) The plan provides for payments to creditors for a period longer than five (5) years [11 U.S.C. §1329(b)(1)]

Facts:

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☐ (13) With respect to each allowed secured claim provided for by the plan, the plan fails to provide for the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed amount of such claim. [11 U.S.C. § 1325(a)(5)(B)(ii)]

Facts:

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☐ (14) Secured creditor deemed to have accepted or rejected plan as modified. [11 U.S.C. { @section } 1323(c)]

Facts:

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☐ (15) Other:

Facts:

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| <b>Other Documents Filed Concurrently Herewith</b> |
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☐ Other:

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| <b>III. Trustee's Recommendation/Analysis</b> |
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☒ The Motion to Modify the Plan should be denied.

☐ Other:

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**WHEREFORE,** the Trustee requests:

☒ That the Trustee's objection to Motion to Modify of the plan be sustained.

☐ That the Debtor's case be dismissed.

Such other and further relief as the court deems proper.

Date: 8/18/2016

/s/ Trustee Martha G. Bronitsky  
Trustee Martha G. Bronitsky  
Chapter 13 Trustee

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Certificate of Service

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I HEREBY CERTIFY that I have served a copy of the within and foregoing document on the Debtor, Counsel for Debtor, and if applicable, the Creditor, Creditor representatives and the registered agent for the Creditor by depositing it in the United States Mail with First Class postage attached thereto.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 18, 2016

/s/ Selesia Fredotovich

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Selesia Fredotovich

Phillip Bernard Moore  
2445 Pearlite Way  
Antioch, CA 94531

Patrick L Forte Atty  
1624 Franklin St #911  
Oakland, CA 94612

Debtor

(Counsel for Debtor)